

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 10474 of 1996****For Approval and Signature:****HONOURABLE MR.JUSTICE SHARAD D.DAVE**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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SHRIRANG ASHISH INTERMEDIATE PVT LTD. - Petitioner(s)
Versus
KAMUBEN S PARMAR - Respondent(s)

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Appearance :

MR AK CLERK for Petitioner(s) : 1,
MR RC PATHAK for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE**Date : 05/10/2005****ORAL JUDGMENT**

1.This Court (Coram: K.S.Jhaveri,J) has passed the order on 26.8.2005 which reads as under.:

“.....Having perused the materials produced on

record, it transpires that this Court on 21st July, 1997, had passed the following order:-

“Mr.Clerk for the petitioner. No one appears for the respondent despite service.

The ad-interim order dated 28th April, 1997 passed by this Court is hereby confirmed to last till the disposal of this Special Civil Application with liberty to the respondent to apply for vacation / modification of this order after filing the reply.”

2.1 However by interlocutory order dated 6th May, 1997 the respondent was called to resume for duty, but she had not resumed for duty.

3. In above view of the matter, it is clear that the question of reinstatement is already exhausted and, therefore, it cannot be considered at this stage. So far as grant of back wages is concerned, in view of the decision of Apex Court in the case of **General Manager, Haryana Roadways v. Rudhan Singh reported in J.T.2005 (6) S.C.p. 137 [2005 (5) S.C.C. p. 591]**, the respondent is not entitled for back wages.....”

2.At this stage, Mr.Pathak has relied upon the decision of the Apex Court in the case of Allahabad Jal Sansthan

Vs. Daya Shankar Rai and another, reported in (2005) 5 SCC 124 and requested to pass the order granting back wages for the intervening period. In view of the aforesaid discussion, I am of the view that the decision relied upon by Mr.Pathak is not helpful to the facts of the present case. Considering the facts and circumstances of the case as well as considering the judgment of the Apex Court in the case of General Manager, Haryana Roadways (supra), the respondent is not entitled for any back wages.

3.In the result, this petition is required to be allowed. The judgment and award passed by the Labour Court dated 24.5.1996 in Reference (LCA) No.1074 of 1987 is quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

(Sharad D.Dave, J)

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